IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO : 4903 of 1999

Between:

N.Yadagiri S/o Late N.Nammaiah,
R/o 8-3-228/1247, Jawharnagar,
Yousuf Guda, Hyderabad.

..... PETITIONER

AND

1 The Labour Court-III,
IV Floor, Chandravihar Buildings,
M.J.Road, Hyderabad.
2 The Depot Manager, APSRTC,
Bus Depot, Devera Konda,
Nalgonda District.

.....RESPONDENTS

ORDER:

This writ petition is filed by the petitioner-workman against the Award dated 26.11.1997 of the Labour Court III in I.D.No.218 of 1994 to the extent the petitioner was denied back-wages, continuity of service and other attendant benefits.

2. Facts, to the extent necessary for this writ petition, are that on 05.08.1981, while the petitioner was discharging his duties as conductor, in route Pylon Colony to Deverakonda, a check was conducted and subsequently a charge sheet was issued. The allegations levelled in the charge sheet was that (1) the petitioner had failed to observe the rule ‘ issue and start’, (2) failed to issue tickets to two individual passengers who boarded the bus at Pylon Stage No.47 and were found alighting at Hill Colony Stage No.46, (3) failed to issue tickets

to a batch of 12 passengers who boarded the bus at Pylon Stage no.47 and were found alighting at Hill Colony Stage No.46 and also (4) closed the tray numbers of all denominations up to the point of check without completing the issues.

3 . It was contended on behalf of the petitioner-workman that one of the passengers consumed poison and the other passengers in the bus forced the petitioner to move the bus as they had to take the patient to the hospital at Hill Colony and a quarrel took place when he demanded the tickets. This was admitted, by one Sri M.A.Mujeeb, controller, in the enquiry, who stated that he knew one passenger in the bus had taken ill. The tribunal rejected the plea of the respondents that the petition filed under section 2 A (2) of the Industrial Disputes Act, 1947 was not maintainable and while re-appreciating the evidence on record held that while 14 passengers had not been issued tickets, the reason for not issuing the ticket was that one of the passenger who had consumed poison was carried in the bus to the hospital. The labour Court held that, in such circumstances, there is every reason to hold that these passengers might have refused to pay the fare since they were carrying the patient in a serious condition. Keeping in view the circumstances including the fact that the petitioner had not collected the amount from the passengers, the Labour Court held that the punishment of removal was disproportionate and accordingly set aside the punishment of removal. The Labour Court also found that the petitioner did not have any motive for wrongful gain in issuing the tickets. While directing reinstatement into service, the labour Court disallowed

the petitioner-workman continuity of service, attendant benefits and back wages. No reasons are given by the Labour Court in the award, in justification of denial of the benefits to the workman. It is true that the labour Court, under Section 11 A of the Industrial Disputes Act, 1947 is entitled to determine the quantum of punishment and to substitute a punishment for that imposed by the employer. However, while exercising this power under Section 11 A of the Industrial Disputes Act, 1947, the labour Court is required to give reasons in justification thereof. While the reasons need not be elaborate the order should reflect application of mind of the Labour Court to the quantum of punishment in question. Since the award does not disclose any such application of mind by the Labour Court, the matter is required to be sent back to the Labour Court for its consideration in accordance with law.

4. However, Sri V.Narsimha Goud, learned counsel for the petitioner, would submit that as the dispute relates to the year 1998, no useful purpose will be served in now remanding the dispute back to the labour Court, more so, since all that the petitioner-workman is seeking is for continuity of service and other attendant benefits and is not pressing the claim to the extent of denial of back wages. Taking into consideration this concession of Sri V.Narasimha Goud, learned counsel for the petitioner, and to give a quietus to the entire dispute, in the peculiar facts and circumstances of the case, I deem it appropriate to set aside the award of the Labour Court III in I.D.No.218 of 1994, dated 26.11.1997 to the limited extent that the petitioner was denied continuity of service and other attendant benefits. The award in so far as the petitioner has been denied

back wages is confirmed. As a result the petitioner will be eligible for continuity of service and other attendant benefits.

5. Writ petition is accordingly, disposed of. There shall be no order as to costs.

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kvrm 04-10-2005